IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.887 OF 2002

Smt.Vibhawati Madhusudan Kulkarni. ...Petitioner.

vs.

1.State of Maharashtra & ors. ...Respondents.

Mr.C.T.Chandratre, for Petitioner.

Mr.V.P.Malvankar, AGP for Respondents.

CORAM: D.K.DESHMUKH &

V.M.KANADE, JJ.

DATED: 20th NOVEMBER,2007.

P.C.:-

1. By this petition, the petitioner challenges the order passed by the Maharashtra Administrative Tribunal. Before the Maharashtra

Administrative Tribunal, the petitioner had challenged the order reverting the petitioner from the post of Superintendent. The learned Counsel appearing for petitioner states that the petitioner gives up challenge to the order of reversion. The only grievance of the petitioner is that after the reversion order, pay fixation of the petitioner was done by the authorities in such a manner that certain amounts become recoverable from the petitioner. It is submitted that this has been done without issuing show cause notice and without giving any opportunity of being heard to the petitioner. It appears that the contention that the order regarding pay fixation and the recovery has been made without giving the petitioner an opportunity of being heard, was raised before the Tribunal. However, from the order of the Tribunal it appears that that point has not been decided by the Tribunal. The learned Counsel appearing for the State stated before us that the Government is willing

to reconsider the issue after giving an opportunity of being heard to the petitioner. In our opinion, therefore, the following order would meet the ends of justice:-

(i) The order of pay fixation and recovery made by the State Government which is impugned in the petition is set aside.

(ii) Within a period of eight weeks from today, the respondents shall prepare a draft pay fixation and in case because of that pay fixation any amount becomes recoverable from the petitioner, issue notice to the petitioner asking her to show cause as to why the draft order should not be finalised and the amount shown in the order should not be recovered from the petitioner. Alongwith the notice, the respondents shall send to the petitioner the draft order prepared in relation to the pay fixation.

(iii) On receiving the notice, the petitioner shall submit reply alongwith all necessary and relevant documents within a period of six weeks. The State Government shall thereafter pass order, within a period of eight weeks from the date of receiving the reply from the petitioner, disclosing reasons for making the order.

Rule is made absolute accordingly.

No order as to costs.

(D.K.DESHMUKH, J.)

(V.M.KANADE,J.)